

STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION

ACO 08- 231

IN THE MATTER OF FOUR STAR OIL AND GAS COMPANY,

Respondent.

**AGREED ORDER DIRECTING COMPLIANCE
AND ASSESSING CIVIL PENALTY**

Pursuant to the New Mexico Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38, as amended ("Act"), and the regulations promulgated under the Act, the Director of the Oil Conservation Division of the Energy Minerals and Natural Resources Department of the State of New Mexico ("OCD") issues this Order to **Four Star Oil and Gas Co.** (hereinafter "Four Star") directing compliance with the Act and OCD Rules, and assessing a penalty for violations of the Act and OCD rules.

I. FINDINGS & DETERMINATIONS BY THE OCD

- 1) The OCD is the state division charged with administration and enforcement of the Act and OCD Rules.
- 2) Four Star is a foreign profit corporation doing business in New Mexico, registered with the Public Regulatory Commission Secretary of the State, under number 0242750. Four Star is an active entity with a principal address of 6001 Bollinger Canyon RD, San Ramon California 94583. Its registered agent for service of process in New Mexico is CSC of Lea County, Inc., 1819 N. Turner St., STE. G, Hobbs New Mexico 88240. Four Star's OGRID is 131994 and its address of record with the OCD is 11111 S. Wilcrest, Houston TX 77099.
- 3) Four Star is the Operator of Record of the Blanco #3A, Unit Letter F, Section 1, Township 27 North, Range 9 West, API #30-045-30214, San Juan County, New Mexico.
- 4) On October 11, 2007, New Mexico OCD Deputy Oil and Gas Inspector Jesse Isaac Chohamin conducted an inspection of the Four Star Blanco #3A well. During the inspection Inspector Chohamin found that the below-grade tank did not have leak detection as required by OCD Rules.

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- 5) Inspector Chohamin consulted with OCD Deputy Oil and Gas Inspector Brandon Powell. Inspector Powell reviewed the file and determined a pit application had neither been received nor approved by the OCD.
- 6) Inspector Powell then contacted Myke Archer with Four Star regarding the below-grade tank and the missing permit. Mr. Archer called back later that day and informed Inspector Powell that Four Star's records indicated that the tank had been installed approximately six months prior.
- 7) OCD Rule 50.A [19.15.2.50.A NMAC] prohibits the discharge into or construction of any pit or below-grade tank absent possession of a permit issued by the OCD, unless otherwise provided by OCD rules or unless the OCD grants an exemption pursuant to OCD Rule 50.G [19.15.2.50.G NMAC].
- 8) OCD Rule 50.C.3 [19.15.2.50.C.3 NMAC] requires that "[a]ll below-grade tanks constructed after April 15, 2004, shall be constructed with secondary containment and leak detection."
- 9) Four Star operates numerous wells in New Mexico with pits and/or below-grade tanks, and was well aware of the requirements and obligations imposed by OCD Rule 50 prior to the construction of the below-grade tank at the Blanco #3A site.
- 10) Rule 50 and the associated Guidelines were specifically brought to the attention of Four Star in 2005 in the course of its operation of the New Mexico State 32 well (API 30-045-33253). The Application for Permit to Drill for the State 32 specified conditions of approval stating that: "Pit construction and closure must satisfy all requirements of O.C.D. Rule 19.15.2.50, and the Pit and Below-Grade Tank Guidelines."
- 11) Four Star thus knowingly and willfully violated OCD Rule 50.A [19.15.2.50.A NMAC] by installing a below-grade tank at the Blanco #3A site without a permit.
- 12) Four Star further knowingly and willfully violated OCD Rule 50.C.3 [19.15.2.50.C.3 NMAC] by installing a below-grade tank without leak detection at the Blanco #3A site after April 15, 2004.
- 13) NMSA 1978 Section 70-2-31(A) provides in relevant part, "[a]ny person who knowingly and willfully violates any provision of the Oil and Gas Act or any provision of any rule or order issued pursuant to that act shall be subject to a

civil penalty of not more than one thousand dollars (\$1,000) for each violation."

- 14) NMSA 1978, section 70-2-33(A) defines "person" in relevant part as "any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate or other entity..."
- 15) As a result of its investigation, on February 25, 2008, the OCD issued Notice of Violation (3-08-06) to Four Star.

II. STATEMENTS & ADDITIONAL INFORMATION PROVIDED BY THE OPERATOR, FOUR STAR

Four Star provided the following supplemental information and statements during an administrative Conference held on March 12, 2008:

- 16) Four Star sent out a new crew to hard pipe some hoses and clean the location.
- 17) Trying to impress their new customer, the crew took it upon themselves to bury the pit.
- 18) Four Star did not intend for the pit to be buried.
- 19) Four Star has completed an in house training and advised their employees what to look for.

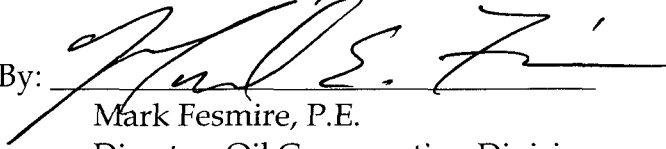
III. CONCLUSIONS OF THE OCD

- 20) The OCD has jurisdiction over the parties and subject matter in this proceeding.
- 21) Four Star is a person as defined by NMSA 1978, § 70-2-33(A) that may be subject to civil penalties under NMSA 1978, §70-2-31(A).
- 22) Four Star is subject to civil penalties under NMSA 1978, § 70-2-31(A) at the Blanco #3A for one violation of OCD Rule 50.A [19 15.2.50.A NMAC] (installing a below-grade tank at the site without a permit) and one violation of OCD Rule 50.C.3 [19.15.2.50.C.3 NMAC] (installing a below-grade tank without leak detection at the site after April 15, 2004).

IV. ORDER & CIVIL PENALTY ASSESSMENT

- 23) Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty against Four Star totaling **One Thousand Dollars (\$1,000.00)** for the violation of the OCD's Rules.
- 24) The civil penalty shall be paid at the time Four Star executes this Order. Payment shall be made by check payable to the "New Mexico Oil Conservation Division," and mailed or hand-delivered to the New Mexico Oil Conservation Division, Attention: Director, 1220 South Saint Francis Drive, Santa Fe, New Mexico 87505.
- 25) By signing this Order, Four Star expressly:
 - a. acknowledges the authority of the OCD to render the above "Findings & Determinations," "Conclusions" and "Order & Civil Penalty Assessment";
 - b. acknowledges that it is the responsibility of Four Star as the Operator of Record of wells in New Mexico to know and comply with Division Rules in the operation of those sites, and that Four Star is ultimately the entity responsible for any noncompliance with Division Rules associated with any site for which it is the Operator of Record.
 - c. agrees to comply with the Order, specifically as articulated in Section "IV," Paragraphs 22, and 23;
 - d. waives any right, pursuant to the Oil and Gas Act or otherwise, to a hearing either prior or subsequent to the entry of this Order, or to an appeal from this Order;
 - e. agrees that if it fails to comply with this Order, the Order may be enforced by suit or otherwise to the same extent and with the same effect as a final Order of the Division entered after notice and hearing in accordance with all terms and provisions of the Oil and Gas Act;
- 26) Nothing in this Order relieves Four Star of its liability should its operations fail to adequately investigate and remediate contamination that poses a threat to ground water, surface water, human health or the environment. In addition, nothing in this Order relieves Four Star of its responsibility for compliance with any other federal, state or local laws and/or regulations.

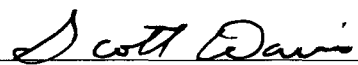
Done at Santa Fe, New Mexico this 9th day of April 2008.

By: 
Mark Fesmire, P.E.
Director, Oil Conservation Division

ACCEPTANCE

FOUR STAR OIL AND GAS COMPANY, (OGRID No. 131994), Operator of the Blanco #3A, Unit Letter F, Section 1, Township 27 North, Range 9 West, API #30-045-30214, San Juan County, New Mexico, hereby accepts the foregoing Order, and agrees to all of the terms and provisions as set forth in the Order.

FOUR STAR OIL AND GAS COMPANY,

By: 

Title: Vice President

Date: 4-7-08